

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CEDRIC LAMONTE JACKSON,

Petitioner,

Case No. 1:06-cv-101

v

HON. JANET T. NEFF

BLAINE C. LAFLER,

Respondent.

FINAL ORDER

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation, recommending that this Court deny the petition. The matter is presently before the Court on Petitioner's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Judgment pursuant to FED. R. CIV. P. 58.

Petitioner objects to the Magistrate Judge's decision that sufficient evidence exists in the record to support all state court determinations in Petitioner's case. Petitioner's objections are without merit. The Magistrate Judge correctly concluded that Petitioner did not meet his burden of rebutting the presumption that the state court decisions were correct. Specifically, the Magistrate

Judge opined that a rational trier of fact could conclude that Petitioner was appropriately convicted based upon the evidence presented.

Petitioner also states the Oakland County Prosecutor's office and the trial judge lost Petitioner's Motion for Relief, did not address the issues raised in the motion, and should not have ruled upon the motion. Petitioner's complaint did not raise this issue; therefore, it was not addressed by the Magistrate Judge. "[I]ssues raised for the first time in objections to magistrate judge's report and recommendation are deemed waived." *United States v. Waters*, 158 F.3d 933, 936 (6th Cir. 1998) (citing *Marshall v. Chater*, 75 F.3d 1421, 1426-27 (10th Cir. 1996)).

Though the Magistrate Judge did not address this issue, the Court must further determine pursuant to 28 U.S.C. § 2253(c) whether to grant a certificate of appealability as to the issues raised. The Court must review the issues individually. *Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001).

"Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack*, 529 U.S. at 484. Upon review, this Court finds that reasonable jurists would not find the Court's assessment of petitioner's claims debatable or wrong. A certificate of appealability will therefore be denied as to each issue asserted.

THEREFORE, IT IS ORDERED that the objections (Dkt 27) are DENIED and the Report and Recommendation of the Magistrate Judge (Dkt 26) is APPROVED and ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED that the petition for habeas corpus relief (Dkt 1) is DISMISSED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to each issue asserted.

Date: October 22, 2008

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge